

SHD Paraphrased Regulations - CalWORKs

050 Deprivation

050-1

Deprivation of parental support or care is a separate and specific eligibility factor for CalWORKs (formerly AFDC). (§41-400)

050-2

When deprivation ceases, CalWORKs (formerly AFDC) assistance shall be continued, if the family is in need, for an adjustment period not to exceed three calendar months. The readjustment period applies when the basis of deprivation (due to relinquishment, incapacity or absence) ceases, or when the basis of deprivation changes "to deprivation due to separation or desertion of a parent. (§41-405.2, .22)

050-3

In CalWORKs (formerly AFDC) a child is considered deprived of parental support or care if:

- (1) Either parent is deceased;
- (2) Either parent is physically or mentally incapacitated;
- (3) The principal earner is unemployed;
- (4) Either parent is continually absent from the home in which the child is living.

(§41-401)

050-4

When a basis of deprivation ceases, and the family remains in need, the county shall determine if any other basis of deprivation exists. (§41-405.1)

050-5

Prior to June 14, 1999, state regulations provided that when there is more than one basis for deprivation, any basis other than federal AFDC-U may be established. (§41-401.3, modified effective July 1, 1998, and renumbered §41-401.4) Effective June 14, 1999, state regulations (which have reinterpreted Assembly Bill No. 1542) provide that when the child is deprived of parental support or care for more than one reason, eligibility may be established on any basis of deprivation, e.g., death, incapacity, unemployment, or absence of the parent. (§41-401.3, replacing §41-401.4, effective June 14, 1999)

050-5A

Prior to July 1, 1998, state regulations provided that unemployed parent deprivation shall not be selected as a basis for deprivation if the child is eligible on another basis of deprivation. (§41-440.4, repealed effective July 1, 1998)

052-1

Deprivation due to incapacity of a parent shall be deemed to exist when the parent of an otherwise eligible child has a physical or mental illness, defect, or impairment that

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reduces substantially or eliminates the parent's ability to support or care for the child for a period which is expected to last at least 30 days and which is supported by acceptable evidence. (§41-430)

052-2

Deprivation based on incapacity exists, if the incapacity:

- .11 Prevents the parent from working full time at a job in which he or she has customarily engaged; and from working full time on another job for which he or she is equipped by education, training or experience, or which can be learned by on-the-job training; or
- .12 Is the reason employers refuse to employ him or her for work the parent could do. This includes behavioral disorders which interfere with the securing and maintaining of employment; or
- .13 Prevents him or her from accomplishing as much on a job as a regular employee and is the reason the parent is paid on a reduced basis even though working full time; or
- .14 Qualifies the parent and he or she is employed in a job which is rehabilitative, therapeutic or in a sheltered workshop not considered to be a full-time job; or
- .15 Reduces substantially or eliminates the parent's ability to care for the child.

(§41-430.1)

052-3

A determination of incapacity can be based on verification that the parent is eligible for Old Age, Survivors and Disability Insurance, Supplemental Security Income/State Supplemental Program, Workers Compensation, or State Disability Insurance benefits, which is conclusive proof of incapacity. Acceptable evidence shall also include a Form CA 341 (Medical Report) or other written statement from a physician or certified psychologist or authorized staff member that sets forth the diagnosis of the parent's condition; why it prevents employment or reduces or eliminates his or her employability or reduces substantially or eliminates the parent's ability to support or care for the child; the duration of the condition; the date of next scheduled examination; and the doctor's name, address and phone number. (§41-430.2)

053-1

A child on whose behalf a CalWORKs application is filed shall be considered deprived of parental support or care when the parent has worked not more than 100 hours in the preceding four weeks, and also meets the unemployed parent requirements set forth in 45 Code of Federal Regulations (CFR) §233.100 on August 21, 1996, except for the provisions of 45 CFR §233.100(a)(3), (i) through (v). (W&IC §11201(b), effective January 1, 1998)

The provisions from 45 CFR §233.100 which do not apply are those which required a principal earner to have been unemployed for at least 30 days prior to the receipt of aid; which prohibited that earner from having quit or refused a job or job training within the 30-day period prior to the receipt of aid; and which required that earner to have established a connection with the labor force. (45 CFR §233.100(a)(3)(i) through (v); All-County Letter No. 97-65, October 29, 1997)

053-1A

State law, modified January 1, 1999, provides that a child receiving CalWORKs who "... is considered to be deprived of parental support or care due to unemployment may continue to receive assistance regardless of the number of hours his or her parent works provided the family does not exceed the applicable gross or net income limits, and is otherwise eligible for assistance." (W&IC §11201(c), as modified effective January 1, 1999 to add "and is otherwise eligible for assistance.")

053-1B

State regulations provide that the family of a child, deprived of parental support or care due to the principal earner's (PE's) unemployment, may continue to receive assistance regardless of the number of hours the PE works, provided the AU meets all other eligibility requirements. (§41-401.2, effective July 1, 1998)

053-1C

Federal regulations in effect on August 21, 1996, and mandated by W&IC §11201(b) as part of the CalWORKs unemployed parent program effective January 1, 1998 include the following:

1. There must be a needy family, whose principal earner is employed fewer than 100 hours per month, or who exceeds the 100-hour standard for a particular month, if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the earner was under the 100-hour standard for the prior two months and is expected to be under the standard during the next month. (The principal earner is the person who meets the definition in 45 Code of Federal Regulations (CFR) §233.100(a)(3)(vi) and §41-440.1(c));
2. The dependent child would have been eligible for aid except that his or her parent is not deceased, absent from the home, or incapacitated;
3. The principal earner must meet the requirements for participation in an employment search program.

(45 CFR §233.100, excluding (a)(3)(i) through (v))

053-2

A basis of deprivation due to unemployment will exist if the parent is employed over 100 hours per month but the work is intermittent and the excess over 100 hours is temporary

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in nature as evidenced by the fact that the hours worked were less than 100 hours in the two prior months and are expected to be less than 100 hours in the succeeding month. (§41-440.11)

053-3

Prior to January 1, 1998, state regulations provided that in general, the principal earner whether included in or excluded from the AU, shall be registered in accordance with §42-625. Federally eligible principal earners exempt because of remoteness shall be registered with EDD-JS, while those otherwise exempt under §42-788 do not have a work registration requirement. (§41-440.23, invalidated by Assembly Bill No. 1542, and formally repealed July 1, 1998)

053-4

For CalWORKs (formerly federal AFDC-Unemployed (AFDC-U)) purposes, the principal earner is whichever parent, in a home in which both parents of a child are living, earned the greater amount of income in the 24-month period, the last month of which immediately precedes either the date of application or the month of transfer to the federal unemployed parent program.

When both parents qualify as the principal earner because both parents earned an identical amount of income in such 24-month period, or neither parent had earnings in this period, the county in consultation with the parents shall designate which parent is the principal earner, except that such designation shall not preclude federal financial participation. Once the principal earner has been determined correctly, that parent continues to be the principal earner for each consecutive month for which the family receives aid under the unemployed parent program.

(§41-440.1(c), modified effective July 1, 1998)

053-5

Prior to January 1, 1998, state regulations provided that, for federal AFDC-U eligibility purposes, the principal earner must have established a connection with the labor force by meeting the requirements of any of the following in six calendar quarters within any 13-calendar-quarter period which ends within one year before the quarter of application: (a) earned gross income of at least \$50 per quarter or (b) participated in the Work Incentive Program, Work Incentive Demonstration Program, Community Work Experience, or Greater Avenues for Independence, or (c) a combination of (a) and (b), or (d) by receiving or being eligible to receive Unemployment Insurance Benefits within one year before application or transfer to federal AFDC-U. (§41-440.41, invalidated by W&IC §11201, and formally repealed July 1, 1998)

053-6

Prior to January 1, 1998, state regulations provided that: In AFDC, aid shall be discontinued at the end of the month in which a principal earner accepts an offer of employment that is expected to provide him/her with more than 100 hours of work per month. The recipient shall be informed that the action is based on the expectation the

principal earner will work more than 100 hours in the next month, and the discontinuance will be withdrawn if the parent submits information substantiating that less than 100 hours were actually worked and no offer of employment was refused without good cause. (§41-440.7, invalidated by W&IC §11201, and formally repealed July 1, 1998)

Unless an AFDC recipient is part of the control group established as part of the Assistance Payments Demonstration Project, the county shall not apply the 100-hour limitation after the date that aid has been authorized (§§89-102.2 and 89-301.2, renumbered to 89-105.2 effective July 9, 1995, invalidated by W&IC §11201, and formally repealed July 1, 1998)

053-6A

Effective December 1, 1992, the county shall not apply the 100 hours limitation specified in §41-440 to recipients (who are not part of the control group) after the date that aid has been authorized. (§89-301.2, renumbered to §89-105.2 effective July 9, 1995)

All-County Letter (ACL) No. 92-98, November 6, 1992, Attachment II, discusses the waiver of the 100 hour rule for AFDC-U recipients.

The ACL states that the 100 hour rule will only be applied to AFDC-U applicant cases for purposes of establishing deprivation based on unemployment. Once AFDC-U eligibility is established, the AFDC-U family remains linked to the AFDC Program regardless of the number of hours the primary wage earner works, or until the basis of deprivation changes.

Under state law, control groups were eliminated effective January 1, 1998. (Assembly Bill No. 1542)

053-7

Prior to January 1, 1998, state regulations provided that the principal earner shall have been unemployed for at least 30 consecutive calendar days prior to the receipt of cash assistance based on Federal AFDC-U deprivation. The 30 days begins the first day of the month in which the applicant principal earner worked less than 100 hours. (§41-440.22, modified by Assembly Bill No. 1542, and formally revised July 1, 1998)

053-7A

The principal earner (PE) shall have worked fewer than 100 hours (as defined in §44-440.1(a)) during the four-week period prior to the date of eligibility for cash aid based on unemployment deprivation. The four-week period shall be adjusted daily to determine the four-week period in which the applicant PE worked fewer than 100 hours. (W&IC §11201(b), effective January 1, 1998; §41-440.22, as modified July 1, 1998)

053-8

Prior to January 1, 1998, state regulations provided that a basis of deprivation due to unemployment exists if the unemployed parent, who is the principal earner, is a natural or adoptive parent with whom a child is living and who:

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- (1) Is not employed; or
- (2) Is employed less than 100 hours per month; or
- (3) Is employed 100 hours in a particular month but the work is intermittent and the excess over 100 hours is temporary in nature as evidenced by the fact that the hours worked were less than 100 hours in the two prior months and are expected to be less than 100 hours in the succeeding month.

(§41-440.1, modified by W&IC §11201, effective January 1, 1998, and formally revised July 1, 1998)

053-8A

The county shall not apply the 100 hours limitation specified in §41-440 to recipients after the date that aid has been authorized. (§89-301.2, effective December 1, 1992)

053-8B

Prior to January 1, 1998, state regulations provided that CDSS policy on the waiver of the 100 hour rule for AFDC-U recipients was that the 100 hour rule is only applied to AFDC-U applicant cases for purposes of establishing deprivation based on unemployment. Once AFDC-U eligibility is established, the AFDC-U family remains linked to the AFDC Program regardless of the number of hours the principal wage earner works, or until the basis of deprivation changes. (All-County Letter (ACL) No. 92-98, November 6, 1992, Attachment II) These same rules apply under CalWORKs (§41-401.2 effective July 1, 1998)

053-9A

The date for determining the transfer to the unemployed parent program is:

- (1) The date of application for CalWORKs benefits on the basis of unemployment of the principal earner; or
- (2) The date of an interprogram change, when a family's circumstances have changed (e.g., a parent returns to the home, a parent is no longer incapacitated) in such a way that deprivation eligibility can only be established under the unemployed parent program.

(§41-440.1(d), effective July 1, 1998)

053-12

The CalWORKs principal earner (PE), who is "apparently eligible" for UIB (in terms of §82-610) shall apply for and accept any UIB to which he/she is entitled, when referred to EDD by the County Welfare Department. When the PE does not meet this requirement, deprivation based on unemployment does not exist. The requirement is considered to be

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met on the date of application as long as it is met by the date of authorization of aid. (§41-440.23, as revised effective July 1, 1998)

054-5

Effective August 1, 1991, the State-only AFDC-U Program was eliminated entirely following the passage of Senate Bill (SB) 724, Chapter 97, Statutes of 1991. Thus, §41-600 et seq. were repealed in their entirety.

055-1

Deprivation exists if either parent is continually absent from the home. (§41-401.14)

055-2

"Continued absence" exists when the natural parent is physically absent from the home and the nature of the absence results in an interruption or termination of the parent's functioning as a provider of maintenance, physical care, or guidance for the child, regardless of the reason for the absence or the length of time the parent has been absent, and the known or indefinite duration of the absence precludes counting on the parent's performance in planning for the present support or care of the child.

If such an interruption or termination of performance of parental responsibilities exists, "continued absence" shall be considered to exist for purposes of eligibility for CalWORKs (formerly AFDC) even if the parent remains in contact with the child through regular or frequent visitation. Regular or frequent visits with the child by a parent who is physically absent from the home shall not, in and of themselves, prevent a determination that "continued absence" exists. "Continued absence" exists when the child lives with each parent for alternating periods of time. (§41-450.11)

055-3

Federal regulations and state law provide that "continued absence" of the parent from the home constitutes a reason for deprivation of parental support or care when the parent is out of the home, the nature of the absence is such as either to interrupt or terminate the parent's functioning as a provider of maintenance, physical care or guidance for the child, and the known or indefinite duration of the absence precludes the counting on the parent's performance of the function of planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and may have left only recently or sometime previously. (W&IC §11250(c); 45 Code of Federal Regulations §233.90(c)(iii))